

139.536 Tourism attraction project credit against sales tax.

- (1)
 - (a) In consideration of the execution of the agreement as defined in KRS 148.851 and notwithstanding any provision of KRS 139.770 to the contrary, the approved company as defined in KRS 148.851 excluding its lessees, may be granted a sales tax refund from the Kentucky sales tax imposed by KRS 139.200 on the sales generated by or arising at the tourism attraction project as defined in KRS 148.851.
 - (b) The approved company shall have no obligation to refund or otherwise return any amount of this sales tax refund to the persons from whom the sales tax was collected.
 - (c) For all tourism attraction projects except those identified in paragraph (d) of this subsection, the term of the agreement granting the sales tax refund shall be ten (10) years.
 - (d) The term of the agreement granting the sales tax refund shall be twenty (20) years for a tourism attraction project that includes a facility, including but not limited to a lodging facility or shrine that is:
 1.
 - a. Located on property owned by the Commonwealth, or leased by the Commonwealth from the federal government; and
 - b. Acquired for use in the state park system pursuant to the provisions of KRS 148.028, and operated by the Kentucky Department of Parks pursuant to the provisions of KRS 148.021 or the Kentucky Horse Park Commission pursuant to the provisions of KRS 148.258 to 148.320; or
 2. Located on property owned or leased by the federal government and identified as a national park.
 - (e) This time period shall commence on the later of:
 1. The final approval for purposes of the inducements; or
 2. The completion date specified in the agreement.
- (2) Any sales tax collected by an approved company as defined in KRS 148.851 on sales transacted after final approval but prior to the commencement of the term of the agreement, including any approved company that has received final approval prior to July 15, 2000, shall be refundable as if collected after the commencement of the term and applied to the approved company's first fiscal year's refund after activation of the term and without changing the term.
- (3)
 - (a) The total sales tax refund allowed to the approved company over the term of the agreement in subsection (1)(c) of this section shall be equal to the lesser of the total amount of the sales tax liability of the approved company and its lessees or twenty-five percent (25%) of the approved costs.
 1. The sales tax refund shall accrue over the term of the agreement in an annual amount equal to two and one-half percent (2.5%) of the approved cost.
 2. Notwithstanding the foregoing two and one-half percent (2.5%) limitation, any unused inducements as set forth in KRS 148.851(9) from a previous year may be carried forward to any succeeding year during the term of the agreement until the entire twenty-five percent (25%) of the approved costs have been received through sales tax refunds.

- (b) The total sales tax refund allowed to the approved company over the term of the agreement in subsection (1)(d) of this section shall be equal to the lesser of the total amount of the sales tax liability of the approved company and its lessees or fifty percent (50%) of the approved costs.
1. The sales tax refund shall accrue over the term of the agreement in an annual amount equal to two and one-half percent (2.5%) of the approved cost.
 2. Notwithstanding the foregoing two and one-half percent (2.5%) limitation, any unused inducements as set forth in KRS 148.851(9) from a previous year may be carried forward to any succeeding year during the term of the agreement until the entire fifty percent (50%) of the approved costs have been received through sales tax refunds.
- (4) Notwithstanding subsection (3) of this section, to the extent that the tourism attraction defined in KRS 148.851 includes a lodging facility located on recreational property owned or leased by the Commonwealth or federal government and the facilities have received prior approval from the appropriate state or federal agency, the total sales tax refund allowed to the approved company over the term of the agreement shall be the lesser of the total amount of sales tax liability or fifty percent (50%) of the approved costs. The sales tax refund shall accrue over the term of the agreement in an annual amount equal to five percent (5%) of the approved cost. Notwithstanding the foregoing five percent (5%) limitation, any unused inducements as set forth in KRS 148.851(9) from a previous year may be carried forward to any succeeding year during the term of the agreement until the entire fifty percent (50%) of the approved costs have been received through the sales tax refunds.
- (5) By October 1 of each year the Department of Revenue shall certify to the authority and the secretary of the Commerce Cabinet for the preceding fiscal year for all approved companies for which sales tax returns were filed with respect to a tourism attraction project, the sales tax liability of the approved companies receiving inducements under this section and KRS 148.851 to 148.860, and their lessees, and the amount of the sales tax refunds issued pursuant to subsections (1) and (4) of this section.
- (6) Interest shall not be allowed or paid on any refund made under the provisions of this section.
- (7) The Department of Revenue may promulgate administrative regulations and require the filing of forms designed by the Department of Revenue to reflect the intent of this section and KRS 148.851 to 148.860.

Effective: June 20, 2005

History: Amended 2005 Ky. Acts ch. 85, sec. 423, effective June 20, 2005; ch. 95, sec. 14, effective June 20, 2005; ch. 184, sec. 14, effective June 20, 2005; and ch. 173, Pt. XXIV, sec. 1, effective March 20, 2005. -- Amended 2001 Ky. Acts ch. 1, sec. 8, effective June 21, 2001. -- Amended 2000 Ky. Acts ch. 315, sec. 2, effective July 14, 2000. -- Amended 1998 Ky. Acts ch. 48, sec. 5, effective July 15, 1998; and ch. 238, sec. 6, effective April 1, 1998. -- Created 1996 Ky. Acts ch. 335, sec. 6, effective July 15, 1996.

Legislative Research Commission Note (6/20/2005). This section was amended by 2005 Ky. Acts chs. 85, 95, 173, and 184, which do not appear to be in conflict and have been codified together.

Legislative Research Commission Note (6/20/2005). 2005 Ky. Acts chs. 11, 85, 95, 97, 98, 99, 123, and 181 instruct the Reviser of Statutes to correct statutory references to agencies and officers whose names have been changed in 2005 legislation confirming the reorganization of the executive branch. Such a correction has been made in this section.